

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Scott C. Harris	Group Art Unit 3693
Appl. No.	:	10/064,439	
Filed	:	July 14, 2002	Confirmation No. 2498
For	:	WEB BASED COMMUNICATION OF INFORMATION WITH RECONFIGURABLE FORMAT	
Examiner	:	Fu, Hao	

Applicants Brief on Appeal

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant herewith files this brief on appeal under 37 CFR 41.37, thereby perfecting the notice of appeal filed on July 26, 2010.

The fee under 37 CFR 41.20-b-2 was previously paid along with the brief filed on August 26, 2008, in a case on which the Board did not issue a decision on the merits.

The sections required by 37 CFR 41.37c follow.

Real party in interest

The application is assigned to record to Harris Technology, LLC who is hence the real party in interest.

Related appeals and interferences.

There are no known related appeals or interferences.

Status of claims.

In the final official action mailed on March 25, 2010, claims 2-16, 18, 22-32 and 65-69 and were rejected. Claims 1, 17, 19-21, and 33-64 have been cancelled. No claim was allowed, or withdrawn, or objected to. All of claims 2-16, 18, 22-32 and 65-69 are appealed by this appeal brief.

Status of Amendments.

A response was filed on June 25, 2010, after the final official action. In an advisory action mailed July 26, 2010, it was indicated that the amendments would not be entered.

No reason for the non-entry was given in the advisory action. No new issues were raised by that amendment, and in fact the examiner agreed that the amendment overcame certain rejections based on section 112 and section 101. A separate paper is being filed herein, requesting entry of the amendment after final.

Summary of the claimed subject matter

Claim 8 defines a Web server producing a webpage that is available on the Internet and which hosts auctions of items for sale. See generally the specification page 3 line 12-page 4 line 6 and element 120 in figure 1. Claim 8 defines an information determining part associated with the web server that receives e-mails and obtains information from the e-mails and recognizes at least one word. See generally computer implemented step 200 described page 4 lines 10-23, and figure 2, element 200. Claim 8 also defines that the information transmitting part sends e-mail messages that include information about items for sale over the Internet on which a user has been outbid. See paragraph 30 of the specification page 6, lines 12-16 and 250/255 in figure 2.

Claim 22 defines a webpage on a server connected to the Internet. See paragraph 16, page 3 lines 12-16 and element 120 in figure 1. Claim 22 defines receiving information on an e-mail server with instructions to interact with a webpage. See paragraph 20; page 4 lines 11-17 which describes sending an e-mail to a special address, and see element 200 in figure 2. Claim 22 defines using a keyword recognition system to automatically recognize at least one word in the message to determine a desired action of the e-mail without a specific form See generally computer implemented step 200 described page 4 lines 10-23, and figure

2, element 200. Claim 22 defines that the webpage is a server that hosts an Internet auction. See paragraph 28. The instruction is to bid on an Internet auction on an item is one on which the user has been previously outbid. See paragraph 30 of the specification page 6 lines 12-16.

Claim 65 defines a Web server producing a webpage available on the Internet. See paragraph 16, page 3 lines 12-16. Claim 65 defines an information determining part associated with the Web server that receives e-mail messages and determines information from those messages. See paragraph 20; page 4 lines 11-17 which describes sending an e-mail to a special address. Claim 22 defines using a keyword recognition system to automatically recognize at least one word in the message to determine a desired action of the e-mail without a specific form See generally computer implemented step 200 described page 4 lines 10-23, and figure 2, element 200.

Grounds of rejection to be reviewed on appeal

Claim 2-16 and 65-69 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. (Note that the advisory action indicates that the amendment filed on June 25, 2010 would obviate this rejection if entered, and hence the concurrently filed request for entry of the amendment after final may moot this rejection.)

Claims 18 and 22-32 stand rejected under 35 USC 101 as allegedly being directed to non-statutory subject matter. (Note that the advisory action indicates that the amendment filed on June 25, 2010 would obviate this rejection if entered, and hence the concurrently filed request for entry of the amendment after final may moot this rejection.)

Claims 2, 6-16, 18, 22-32, 65-67, and 69 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Fisher et al. (US 5,835,896) in view of Powell (US 7,058,582).

Claims 3, 4, and 68 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Fisher (US 5,835,896) in view of Powell (US 7,058,582) in view of official notice.

Claim 5 stands rejected under 35 USC 103(a) as allegedly being unpatentable over Fisher (US 5,835,896) in view of Powell (US 7,058,582), and further in view of Feinberg (US 6,366,891).

Argument

Claim 2-16 and 65-69 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

This contention is respectfully traversed.

The rejection queries where the "information determining part" is shown in the specification. The original specification referred to a module 115 in figure 1, and pages 3-4 of the specification explains this "can be a conventional Web service or other subscription service, or simply can be an interfacing program that is running on a computer...".

This was previously claimed as an information translating part, but applicants believed that an information determining part is actually more accurate, since this part determines information. The specific label of "information determining part" was not disclosed in the original specification; however its function was clearly disclosed as determining information. Therefore, this functionality and operation is clearly supported within the originally filed specification.

Figure 2 as originally filed explains the flowchart of operation, and it is quite clear from figure 2 that information is determined, for example element 210 looks up personal information and element 220 gets an existing list. Clearly this is

determining information, and hence clearly this determines information, and as such is an “information determining part”.

In addition, the information determining part in figure 2 is described as parsing the information in the e-mail; see element 225 in figure 2A and paragraphs 23-24 of the specification which explained that this obtains information from the e-mail message.

The disclosure described the information in a form that can interact with the webpages, see for example items 226, 227.

Turning to the specific claims, Claim 8 defines a keyword recognition system that recognizes at least one word in at least one of the e-mail messages, see paragraph 22 of the original specification that describes parsing words from the e-mail. Therefore, claim 8 is clearly wholly supported by the original specification.

To the extent that this rejection also applies to claim 22, claim 22 also uses a keyword recognition system to automatically recognize words in the e-mail message, see paragraph 22 and element 225 in figure 2.

To the extent that this also applies to claim 65, Claim 65 defines the information determining part with a keyword recognition system again see paragraph 22 of the specification and element 25 in figure 2.

Therefore, the contention that these claims fail to comply with the written description requirement is respectfully traversed. According to the specification, applicants clearly had possession of this subject matter as of the filing date.

Claim 10 is rejected as reciting the limitation "said plain text messages". (see page 2 of the office action, next to last paragraph). This rejection is not understood, since claim 10 was clearly amended in the July 20, 2009 amendment to recite that "said information determining part detects a reply to a plain text message". A screen shot from the actual amendment is reproduced below.

10. (Currently Amended) A system as in claim 9, wherein said information ~~translating~~determining part detects a reply to ~~one of said a plain text messages-message~~ which reply including said session identification indicator, and takes action on a specified auction based on said session identification indicator.

Therefore, applicants believe that this issue was previously overcome in a previous response.

Claims 18 and 22-32 stand rejected under 35 USC 101 as allegedly being directed to non-statutory subject matter.

This contention is respectfully traversed. Claim 22 (from which claim 18 depends) clearly defines that the webpage is produced on a server that is connected to the Internet, that an e-mail message is received on the server, and that the server uses a keyword recognition system to recognize at least one word in the e-mail message. Hence, claim 22 defines operations that are tied to a particular apparatus: here a server.

The statement in the office action that simply stating that a method is computer implemented in the preamble is not sufficient to tie to a statutory class is not understood. Claim 22 does not "simply state that a method is computer implemented in the preamble". Rather, claim 22 states that a webpage is produced on a server that is connected to the Internet. That server also receives a first e-mail message, and uses a keyword recognition system. All of these are actions of a machine (the server), and hence claim 22 is clearly "tied to a machine".

Moreover, the patent office's contention that a server could be a program rather than a computer is believed to be a difference without a distinction. Based on the structure of the claim, the "server" must be something that executes the steps. Whether you call this a program or a computer, it is still something that is

executing the steps of the operation. As claimed, this cannot be software per se, because it defines the computer that is executing the operation, e.g., “producing a web page on a server...”.

Also note that the patent office has relied on Powell to show changes on the Internet. One of the reasons for this reliance is that Powell states that software resides on "a server". See for example column 3 line 20. Accordingly, the Powell reference (to the extent that it is actually prior art) provides evidence that a "server" can be programmed and execute programs.

Claims 2, 6-16, 18, 22-32, 65-67, and 69 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Fisher et al. (US 5,835,896) in view of Powell (US 7,058,582).

This contention is respectfully traversed.

Fisher shows a generalized auction webpage. The rejection agrees, however, that Fisher does not show a keyword recognition system of the type claimed, that interfaces with an auction webpage.

Applicant does not concede that Powell is prior art; however, this brief assumes that Powell was prior art.

Powell teaches a webpage modification system which allows a user to modify webpage contents through using e-mails.

Initially, it is respectfully suggested that the hypothetical combination of Fisher in view of Powell is not a proper legal combination of prior art.

The combination of Fisher in view of Powell is made based on the teaching of the present specification, not based on anything in the prior art. Fisher specifically discusses sending the information in forms. The only teaching for sending non-form style information to a Web server that hosts auctions of items for sale comes from the present application, not from the prior art.

The secondary reference to Powell similarly does not teach receiving e-mails about information that can interact with the webpage that hosts auctions of items for sale and maintains auction bids for items for sale. In fact, the secondary reference to Powell teaches the user modifying the webpage itself,

A reference cannot be relied on for only one part of its teaching. A reference must be considered as a whole, see MPEP 2142.02VI, and *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Therefore, the entire teaching of Powell must be considered. Here, Powell teaches operations to modify the webpage itself.

When a user bids on an Internet auction, the bids are based on items or other things shown on the webpage. For example, in Fisher's bid form, the bid would be on items that were entered in the bid form. The rejection is combining Powell, presumably to use Powell's webpage programming system to modify the bid.

Powell would allow making a change to a webpage by sending program changes in plain text. If the webpage in Powell, however, was modified in some way to be used to place a bid, Powell's webpage would presumably be placing that bid. (Again, there is no teaching in Powell or in Fisher of doing this, so this hypothetical combination is improper as described herein.) However, even assuming that the webpage in Powell could be used to place a bid, when you

change the webpage in Powell, you would change the subject of the bid. That is, the bid is no longer valid once the webpage is changed. As an example, if you bid on an auction for a motorcycle in Powell, and then change the webpage to show a bicycle, the previous bid on the motorcycle would no longer be valid.

Powell's teaching of changing the webpage is therefore wholly inconsistent with Fisher's teaching of bidding on Internet items. When you change the webpage as in Powell, you would change the subject of the bid. The bid would no longer be valid once the webpage was changed. Therefore, Powell would destroy the functionality of bidding on an Internet item through its teaching of changing the web page itself. Conversely, Fisher defines an environment where the webpage could not be changed since bids are being taken on that webpage. Fisher hence would destroy the functionality of Powell who requires changing the webpage.

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)

Moreover, as a wholly separate reason for lack of combination, nothing in the prior art teaches the specific functionality of interacting with an Internet auction by using keyword recognition as claimed.

MPEP 2143 clearly explains that to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Here, the teaching to combine the references is not in either reference, but is rather in the present specification. Hindsight reconstruction occurs when one uses the current application “as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims ...” (quoting *Orthopedic Equip. Co. v. United States*, 702 F.2d 1005, 1012 (Fed. Cir. 1983)).

That is precisely what has been done here. The references must be taken as a whole, and taking the references as a whole, Fisher shows a system for bidding based on forms, and Powell shows changing a program using program changes in

plain text. Accordingly, the combination of Fisher in view of Powell is based on hindsight.

Moreover, the patent office has not met its duty of providing a reasoned basis why the references would or could be combined. Here, the rejection states that "one would have been motivated to combine the references in order to eliminate the need for specialized knowledge in the Web".

With all due respect, this is a conclusory statement and not applicable to either the claimed invention or to the references. This statement simply alleges that the results that are claimed in the current application would be desirable, without saying why it would have been obvious to combine the references. This is precisely contrary to what is required by MPEP 2143.01 (IV), which says "[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR v Teleflex*, 550 U.S. at ___, 82 USPQ2d at 1396 quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). “

Here, the mere statement that Fisher in view of Powell would have been obvious to combine in order to eliminate the need for specialized knowledge simply recognizes the problem that has been presented and solved by the present

specification. There is no disclosure of reasons why these references would be combined, and every reason, given above, of why they wouldn't be combined.

Therefore, for these reasons, the patent office has not met their burden of providing a prima facie showing of unpatentability. In fact, a person having ordinary skill in the art would not make this hypothetical combination, since the teaching to make the combination comes from the present application, not from the prior art. The patent office has improperly used hindsight in picking and choosing from the references.

Moreover, even assuming this combination could be made, the hypothetical combination still does not teach the subject matter of claim 8.

Claim 8 defines a Web server producing a webpage that hosts auctions of items for sale over the Internet. Claim 8 also defines an information determining part that receives e-mail messages in a form that can interact with the webpage. Powell shows figure 4; element 22 receiving an e-mail bid. See for example also column 8 lines 15-29, where the e-mail bid 22 can increase the bid amount. Specifically, Fisher shows a system for buying products over the Internet. One of the possibilities is a bidding system. As the official action points out, column 6 of Fisher from lines 46-67, describes that an e-mail notification can be used to "allow the bidder to enter a new bid by replying to the electronic mail message and sending it back to the system". The specific technique of Fisher, however, uses a

form in the message, so that one part of that form in the message, when responded to, can include a new bid.

The patent office agrees, however, that Fisher does not teach this in conjunction with a keyword recognition system as claimed. See page 5 lines 3-10 of the office action.

The rejection cites Powell to show an information determining part of the type claimed. However, even the patent office agrees that

Even though Powell does not explicitly teach using email in plain text and keyword recognition system for placing bids, the prior art suggests that the technology is used to replace the special forms for executing desired action on a web page for the purpose of eliminating the need for specialized knowledge in the web (see column 2, line 7-12). The Fisher reference teaches using specialized "bid form" for placing bids, so it would have been obvious to one of ordinary skill in the art to modify the Fisher reference with the technology taught in Powell. Furthermore, Fisher teaches placing a new bid via an email reply (see column 8, line 24-29), and thus the prior art anticipates a keyword recognition system to parse and detect the command in the emails. One of ordinary skill in the art would have been motivated to combine the references in order to eliminate the need for specialized knowledge in the web.

(screenshot from page 5 of the official action, fourth paragraph).

The claimed subject matter is not shown by Fisher / Powell, and produces a significant advantage over Fisher's requirement of using a specific form.

According to claim 8, any desired e-mail can be sent, because the keyword recognition system recognizes one word in the e-mail that can be used to indicate the subject of the e-mail. Fisher requires that a specific form be used. Claim 8, in contrast, describes that by recognizing at least one word in the e-mail, different

actions can be taken. The effect is that since words are recognized, this obviates the need to use a specific and specialized form for this operation.

Hence, claim 8 should be allowable along with the claims that depend therefrom.

Claim 6, for example, states that the information automatically recognizes phrases that include the word bid, and automatically takes an action to a bid on one of the items for sale. The patent office states that Fisher implies that the information determining part automatically recognizes the word 'bid'.

Applicant respectfully suggests that this is incorrect. The portion of Fisher referred to by the Office Action is describing the context of replying to an outbid message. Fisher explains column 8 lines 24-28 that the bidders can reply to this outbid message with a new bid amount. However, since these bidders are replying to an out bid message, it is clear to the system that this is a bid. This is even stated in Fisher column 8 lines 27-29 who states that "an electronic mail bid 22 sent in reply to the notification is received by the electronic auction system and processed by bid validator 21 as described above". The bid validator, see for example column 7 lines 50-65 requires a specific form. That is, nothing in this prior art recognizes the word "bid" in an e-mail, as claimed.

Moreover, claims like claim 6 that define bidding on an item, make a hypothetical combination of Fisher in view of Powell even less plausible. If one is

bidding on an item, it makes no sense to use the teaching in Powell, which teaches modifying the webpage. When one bidding on an item would not be recognized by one having ordinary skill in the art is being the same as modifying a webpage. In fact, bidding on an item teaches away from modifying a webpage, as explained above. It makes no sense to think that you could bid on an item on a webpage, by modifying the webpage. If you modify the webpage, it changes what you're bidding on.

For these reasons, claim 6 is even further distinguished over the prior art and should be independently allowable.

Claim 9 specifies that the information determining part sends messages that include a session identifier that is a unique value that represents an item in the auction. The rejection states that this is inherently shown in Fisher's disclosure column 6 lines 46 to 57. Applicant respectfully urges that Fisher is actually silent on the session ID as claimed. Fisher column 8 beginning at line 27 describes that the e-mail bid is "processed by bid validator 21" and bid validator 21 is described column 7 lines 50-55 as processing information based on the bid form 20. Lines 46-57 described e-mail notifications being sent to bidders who have been outbid.

This section describes

“These electronic mail notification messages preferably contain the relevant merchandise information, the current high bid, the bid increment, etc., and encourage the bidder to submit a new and higher bid to outbid the current high bidder. These electronic mail notification messages

allow the bidder to enter a new bid by replying to the electronic mail message and sending it back to the system.

Upon receiving a new or revised bid via electronic mail, the system follows the same set of actions as when the bidder places a bid using the electronic bid form when viewing a merchandise catalog page, namely, the system extracts the relevant bid information from the electronic mail message, deposits this information in the bid database,”

Therefore, it is clear from Fisher's disclosure that Fisher uses his bid form 20 for this purpose, rather than using “a session identification indicator that identifies said auction information, and that where said session identification indicator is a unique value, that unambiguously represents an item in said auction information”, as claimed. Nothing in Fisher, and certainly nothing in view of this cited section describes such a session identification indicator. Rather, Fisher contemplates that the user uses the electronic bid form as part of the e-mail. See column 6 lines 50-63 of Fisher.

In fact, the disclosure in column 6 lines 49-54 of Fisher teaches away from a unique session ID, in its teaching that the actual bid information such as the item ID and the like would be included in that message.

For these reasons, the hypothetical combination of Fisher in view of Powell would use Fisher's teaching of validating the bid form, rather than a session ID of the type claimed in claim 9.

Claim 10 defines that the replying includes the session identification information, and nothing in Fisher in view of Powell teaches detecting this session

identification information or using this session identification information. See the above discussion of claim 9 which explains that the e-mail uses the bid form technique.

Claim 12 also defines the messages including a session ID indicative of the actions, that is a unique value. Nowhere does Fisher in view of Powell show such a session identification.

Claim 13 is even more specific and should be additionally allowable on its own merits. Claim 13 defines the session ID being included as part of a return address in the e-mail message. Fisher clearly states that this is not the way it works. Column 6 line 50 of Fisher states that the notification messages contains "the relevant merchandise information, the current high bid, bid increment etc.". Column 8 describes in more detail about how this is done, and describes that this bid is validated by the bid validator 21 of figure 4. Column 7 beginning at line 50 describes that the bid validator examines the bid form 20. Clearly, therefore, the information in this e-mail is in the form of the bid form. Clearly, Fisher in view of Powell would use Fisher's teaching of processing the information in the form of the bid form; not, as claimed in claim 13, "included as part of a return address in the e-mail message".

Therefore, claim 13 should be additionally allowable for these reasons.

Claim 14 defines that the session ID is used to interact with actions on the webpage. Nothing in Fisher in view of Powell teaches that, and certainly nothing in Fisher in view of Powell teaches a session ID of the type claimed see above.

Claim 16 should be allowable by virtue of its dependency.

Claim 22 defines a server that receives an e-mail message with instructions to interact, uses a keyword recognition system to automatically recognize one word to desire determine automatically the desired action of the e-mail and where that one word instructs to bid on an item. As described above:

-The patent office has improperly used applicant's specification as a guide through the maze of prior art. There is no disclosure in Fisher in view of Powell of this combination. The only disclosure is in the present invention. This combination is made based on hindsight.

- Fisher in view of Powell could not be combined without contradicting the teaching in one reference or the other, and therefore the combination of Fisher in view of Powell is an improper combination.

-The reasons given for combining Fisher in view of Powell: that one would have been motivated to combine Fisher in view of Powell in order to "eliminate the need for specialized knowledge in the Web" does not provide a specific reason for combining the references, but rather is a conclusory statement and does not

satisfy the patent office's requirement of providing a reasoned basis for combining Fisher in view of Powell.

Claim 22 requires that the keyword recognition system instructs bidding on an item. Therefore, even if the hypothetical combination of Fisher in view of Powell were made, it would use a Fisher type auction system with Powell's teaching that e-mails could be sent to change the webpage. There is no disclosure in this combination that e-mails could be sent to bid on an item. In fact, bidding on an item is materially different than, and in essence mutually exclusive from, changing a webpage, since when one bids on the item on the webpage, it makes no sense to change the webpage on which you were bidding.

Therefore, the hypothetical combination of Fisher in view of Powell does not teach or suggest the subject matter of claim 22.

Claim 25 should be additionally allowable, as nothing in the prior art teaches a session ID indicative of an individual auction on the webpage. As described above with respect to claim nine, there is no teaching or suggestion in Fisher in view of Powell of a unique value that unambiguously represents one of the individual auctions. The bid validator 21, as described above, reviews information on Fisher's e-mail message (as it would be used in Fisher in view of

Powell). There is no description of a unique value of this type in the hypothetical Fisher/Powell combination.

Claim 26 should be additionally allowable for reasons discussed above with respect to claim 6, specifically that none of the prior art teaches automatically recognizing “phrases that include the word “bid” in said email as one of said words”. The patent office states that this would have been obvious, however, this is respectfully suggested to be based on hindsight, since nothing in Fisher in view of Powell teaches or otherwise suggests recognizing the word bid, and the hypothetical combination of Fisher in view of Powell would not provide an automatic bid recognition system.

Claim 28 defines that the e-mail message includes session ID information that is a unique value representing one of the individual auctions. As described above with respect to claim 9, this is nowhere taught or suggested by Fisher in view of Powell.

Claim 29 is even further distinguished from the prior art, since it defines replying with the session ID information, and modifying the bid responsive to replying with the session ID information. None of this is anywhere discussed in Fisher in view of Powell. See the detailed discussion of claim 9 above.

Claim 30 should be additionally allowable, as it specifies the session ID is part of a return address for the e-mail. Even assuming that one could interpret

what is done by Fisher as being a session ID, it is certainly not part of the return address. See the discussion above.

Claim 32 defines that the session ID is a unique value that unambiguously represents the individual item. As described above, this is not taught or suggested by Fisher in view of Powell; see the discussion of claim 9 above.

Claim 65 specifies that the information determining part has a keyword recognition system that automatically recognizes the word "bid".

As described above:

- The patent office has improperly used applicant's specification as a guide through the maze of prior art. There is no disclosure in Fisher in view of Powell of this combination. The only disclosure is in the present invention. This combination is made based on hindsight.

- Fisher in view of Powell could not be combined without contradicting the teaching in one reference or the other, and therefore the combination of Fisher in view of Powell is an improper combination.

- The reasons given for combining Fisher in view of Powell: that one would have been motivated to combine Fisher in view of Powell in order to "eliminate the need for specialized knowledge in the Web" does not provide a specific reason for combining the references, but rather is a conclusory statement and does not

satisfy the patent office's requirement of providing a reasoned basis for combining Fisher in view of Powell.

Even if combined, none of the prior art shows this subject matter, and specifically does not show "a keyword recognition system which recognizes at least phrases that include the word "bid" in an email message to determine automatically that a bid action is being requested by said email".

Moreover, the teachings of Powell, that a webpage should be modified by his instructions, would need to be contradicted in order to meet the limitations of claim 65. If one is placing a bid on an item, one cannot be modifying the webpage showing the item itself. Since Powell teaches using his system to modify a webpage, this teaching would have to be contradicted in order to place a bid on the item that is on the webpage. Therefore, claim 65 should be additionally allowable for these reasons.

Claim 66 defines a session identifier indicator that identifies the auction information where the session identifier indicator is a unique value. As described above with respect to claim 9, nothing in the prior art teaches that a unique value is sent with this e-mail in Fisher, and hence Fisher in view of Powell (even if combined) do not teach this subject matter.

Claim 67 defines that the session identification is part of the return address. This should be allowable for reasons discussed above.

Claims 3, 4, and 68 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Fisher (US 5,835,896) in view of Powell (US 7,058,582) in view of Official Notice.

These claims should be allowable by virtue of their dependency.

The current specification did admit that cell phones were known to send and receive e-mail. However, applicant traverses the official notice to the extent that it is attempting to establish that cell phones could be used to send or receive bid messages of the type claimed.

For claim 68, the official notice is respectfully traversed to the extent that it is stating that there is an alphanumeric session identification indicator in alphanumeric information in the prior art.

Claim 5 stands rejected under 35 USC 103(a) as allegedly being unpatentable over Fisher (US 5,835,896) in view of Powell (US 7,058,582), and further in view of Feinberg (US 6,366,891).

This claim should be allowable by virtue of its dependency. Claim 5 specifies that userid and password are sent as part of e-mail messages of the type discussed above. The tertiary reference to Feinberg, even assuming it could be combined with the hypothetical Fisher/Powell combination, would only define a username

and password must be submitted with this. It teaches nothing about doing this over e-mail in the specific way disclosed. Therefore, claim 5 should be additionally allowable for these reasons.

It is also respectfully suggested that the remaining rejections do not meet the patent office's burden of providing a prima facie showing of unpatentability, and that these claims should also be allowable. A notice of reversal is hence respectfully requested.

Please charge any fees due in connection with this response, (excluding those concurrently paid via EFS), to Deposit Account No. 50-1387.

Respectfully submitted,

Date: 9/27/2010

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Claims Appendix

2. A system as in claim 8, wherein said e-mail messages include e-mail messages in plain text form.

3. A system as in claim 8, further comprising an e-mail pager, producing said e-mail messages.

4. A system as in claim 8, further comprising a cellular telephone, producing said e-mail messages.

5. A system as in claim 8, wherein said information determining part receives and translates a user ID and password as part of said email messages.

6. A system as in claim 8, wherein said information determining part automatically recognizes phrases that include the word "bid" in said email as one of said words and where said action is a bid on one said items for sale over the Internet.

7. A system as in claim 8, wherein said information determining part also sends e-mail messages indicative of information about said auctions.

8. A system, comprising:

a web server, producing a web page which is available on the Internet wherein said web server is a server that hosts auctions of items for sale and maintains auction bids for items for sale over the Internet; and

an information determining part associated with said web server which receives e-mail messages and obtains information from said e-mail messages, said information being in a form which can interact with said web page being produced by said web server;

wherein said information determining part having a keyword recognition system which recognizes at least one word in at least one of the email messages to determine automatically a desired action of said email without requiring a special form for the email to recognize said at least one word,

and wherein said information determining part also sends e-mail messages that include information about items in said auctions for sale over the Internet, on which items a user has been outbid.

9. A system as in claim 8, wherein said information determining part produces and sends messages which include a session identification indicator that identifies said auction information, and that where said session identification indicator is a unique value, that unambiguously represents an item in said auction information.

10. A system as in claim 9, wherein said information determining part detects a reply to a plain text message which reply including said session identification indicator, and takes action on a specified auction based on said session identification indicator.

11. A system as in claim 8, wherein said information determining part also sends e-mail messages indicative of actions occurring on said web page.

12. A system as in claim 11, wherein said e-mail messages include a session ID indicative of said actions where said session ID is a unique value, that unambiguously represents an item to be bid on.

13. A system as in claim 12, wherein said session ID is included as part of a return address in the e-mail message.

14. A system as in claim 13, wherein the session ID is used to interact with said actions on said Web page.

15. A system as in claim 10, wherein said action includes placing a new bid.

16. A system as in claim 8, wherein said keyword recognition system in said information determining part automatically detects a new bid amount as part of a sent message.

18. A method as in claim 22, further comprising sending a second e-mail that has instructions on a specific interaction with said web page.

19. A method as in claim 22, wherein said first e-mail includes information that requests specified information from said web page, and further comprising sending a response including said specified information.

22. A method, comprising:

producing a web page on a server that is connected to the Internet wherein said web page is a web page for a server that hosts Internet based auctions; and

receiving a first e-mail message on the server, which e-mail has instructions to interact with said web page;

on the server, using a keyword recognition system to automatically recognize at least one word in the first email message, to determine automatically a desired action of said email without requiring a special form for the first email message to recognize said at least one word,

wherein said at least one word comprises a word that instructs bid on an item on an Internet based auction; and

wherein said item is an item on which a user has been previously outbid.

23. A method as in claim 22, wherein said web page is an e-commerce site.

24. A method as in claim 22, wherein said web page is a web page for a server that hosts Internet based auctions.

25. A method as in claim 24, wherein said e-mail message includes a session ID indicative of an individual auction on said web page, where said session ID is a unique value, that unambiguously represents one of said individual auctions.

26. A method as in claim 22, wherein said keyword recognition system automatically recognizes phrases that include the word "bid" in said email as one of said words.

27. A method as in claim 26, further comprising replying to said first e-mail message with instructions to increase a bid.

28. A method as in claim 18, wherein said e-mail message includes session ID information that represents said individual auction on which said user has been previously outbid, where said session ID is a unique value, that unambiguously represents one of said individual auctions.

29. A method as in claim 28, further comprising replying to said e-mail message with said session ID information, and modifying a bid on said web page responsive to said replying.

30. A method as in claim 29, wherein said session ID is part of a return address for said e-mail.

31. A method as in claim 29, wherein said replying includes specifying an amount of a bid to be placed.

32. A method as in claim 22, wherein said e-mail message includes a session ID indicative of an individual item on said web page, and where said session ID is a unique value, that unambiguously represents said individual item.

65. A system, comprising:

a web server, producing a web page which is available on the Internet, wherein said web server produces a web page that hosts auctions of items for sale and maintains auction bids for items for sale over the Internet; and

an information determining part associated with said web server which receives e-mail messages and automatically determines information from said e-mail messages in a form which can interact with said auctions on said web page being produced by said web server;

wherein said information determining part having a keyword recognition system which recognizes at least phrases that include the word “bid” in an email message to determine automatically that a bid action is being requested by said email, and automatically provides information about said bid action to said web server, wherein said web server also accepts a bid based on said information about said bid action.

66. A system as in claim 65, wherein said information determining part and sends messages which include a session identification indicator that identifies said auction information, and that where said session identification indicator is a unique value, that unambiguously represents an item in said auction information.

67. A system as in claim 66, wherein said session identification indicator is included as part of a return address in the e-mail message.

68. A system as in claim 66, wherein said session identification indicator is included as alphanumeric information in the email.

69. A system as in claim 66, wherein the session identification indicator is used to interact with said actions on said Web page.

Evidence appendix

None

Related proceeding appendix

None